

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

DAVID EARL KATES

v.

UNITED STATES OF AMERICA

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§  
§  
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§

2:12-CV-0018

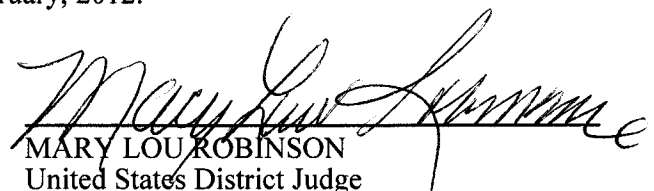
**ORDER OVERRULING OBJECTIONS,  
ADOPTING REPORT AND RECOMMENDATION, and  
DISMISSING MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE**

Came for consideration the First Amendment Petition Redress of Grievances filed by petitioner KATES on January 17, 2012 in cause no. 2:97-CR-0042. Upon review by the Court, the First Amendment Petition Redress of Grievances was construed to be a Motion to Vacate, Set Aside, or Correct Sentence falling under Title 28, United States Code, section 2255, and was filed under the present civil action number. On January 19, 2012, the United States Magistrate Judge issued a Report and Recommendation in this cause, recommending therein that petitioner's Motion to Vacate, Set Aside or Correct Sentence filed by petitioner be dismissed as successive. Petitioner filed his Objections on February 2, 2012 and filed a second, almost identical set on February 6, 2012.

Having made an independent examination of the record in this case and having examined the Report and Recommendation of the Magistrate Judge as well as defendant's objections, the undersigned United States District Judge hereby OVERRULES defendant's objections, and ADOPTS the Magistrate Judge's Report and Recommendation. Accordingly, the motion under 28 U.S.C. § 2255 to vacate, set aside, or correct sentence filed by petitioner is, in all things, DISMISSED.

It is SO ORDERED.

Signed this the 8<sup>th</sup> day of February, 2012.

  
MARY LOU ROBINSON  
United States District Judge